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ACTIONS BROUGHT BY SOVEREIGNS. — The rule that the courts of this country are open to sovereigns seeking judicial redress is as settled as the principle that a sovereign cannot be sued without its consent. The cases do not clearly recognize any well-defined principles concerning the question how far a sovereign submits to the jurisdiction of the court by bringing suit. The rule, it would seem, ought to be that the law should be applied as if the suit were between individuals, provided that such application does not infringe upon any well-recognized prerogative of sovereignty, or, if it so infringe, that the sovereign's express consent be shown. *King of Spain* v. *Hullet*, 1 Cl. & Fin. 333. But a prerogative that should be recognized is the immunity of a sovereign from an affirmative judgment in favor of the defendant. *People* v. *Dennison*, 84 N. Y. 272 (*semble*); *U. S.* v. *Hooe*, 3 Cranch 73, 92. This principle is based upon the same reason which exempts a sovereign from the suit of an individual; for it is contrary to the conception of sovereignty that a sovereign should be bound by the order of an inferior body. Hence a recent decision that a cross-libel cannot be entertained in answer to a libel by the United States for injuries in a collision to a government vessel is entirely sound. *Bowker* v. *U. S.*, 105 Fed. Rep. 398 (Dist. Ct., N. J.). The case, however, is instructive in pointing out a principle not often recognized.

In cases between individuals, where the court for some reason cannot give the defendant the affirmative relief which he would ordinarily receive, it is often possible to render substantial justice to both parties by the application of other judicial remedies. For example, in a suit in which a cross-bill for discovery could not be allowed, though the plaintiff in the original proceedings had access to matters necessary to the other party's defence, the original suit was properly enjoined until the discovery should be voluntarily given. *Atty.-Genl.* v. *Brooksbank*, 1 Y. & J. 439. Similarly in a libel in admiralty, where the court had no jurisdiction to

entertain a cross-libel and the fault of both parties was shown to have caused the collision complained of, judgment for the libellants was entered conditional upon payment to the claimants of a moiety of the loss incurred. *The Seringapatam*, 3 Wm. Rob. 38. In similar cases, where a sovereign is plaintiff, the same practice should be followed, thus applying the general rule that in actions brought by sovereigns the law should be applied as between individuals, at the same time without infringing upon any prerogative of sovereignty. A condition precedent to the right to sue is not imposed, but the court acts in the only way in which it has authority to act. This result has practically been reached in several English decisions, though the principles suggested were not fully considered. *Prioleau* v. *U. S.*, L. R. 2 Eq. 659; *U. S.* v. *Wagner*, L. R. 2 Ch. App. 582. In these cases, however, the plaintiff was a foreign sovereign; yet the same rule should apply where the plaintiff is a domestic sovereign, since he also is entitled to no special privilege other than that mentioned. *U. S.* v. *Pacific R. R. Co.*, 105 U. S. 263.

In the principal case, therefore, it might well be within the discretion of the court to stay the original proceedings until the United States should consent to the filing of the cross-libel. But if both parties were at fault, judgment for the government should be entered only upon the condition of payment to the claimants of the sum to which they are entitled, even though such payment cannot be ordered. *The Seringapatam*, *supra*. See *The Sapphire*, 11 Wall. 164.

Citizenship of Civil Law Commercial Societies. — The United States and Chilean Claims Commission, whose work is nearing completion in Washington, in the case of *Chauncey* v. *Chile* has recently dismissed the claim of Alsop and Company, a commercial society formed in Chile by American citizens, upon the ground that the treaty between the United States and Chile, 27 Stat. 965, gave the commission jurisdiction only over claims of citizens of the United States against Chile and of Chilean citizens against the United States, whereas the claim of Alsop and Company was on behalf of a citizen of Chile against its own government.

Alsop and Company belonged to that class of commercial societies known under the civil law, and hence under the law of Chile, as a *société en commandite simple*, in which some of the members have limited, and some unlimited, liability. In this respect, though differing in nearly every other feature, the company was analogous to an English or American limited partnership, which, unlike a corporation, does not constitute a juridical person under the common law rule. But the civil law makes no such distinction between the different forms of business societies, the *collectif*, the *commandite simple*, the *commandite par actions*, and the *anonyme*, the latter closely resembling our corporations. All four form juridical persons, either by express enactment, Civil Code of Chile, art. 2053, or by construction, Pont, Explication du Code Civil, § 814; and this personality continues even after the society, as in the principal case, has entered into liquidation. 2 Lyon-Caen et Renault, Droit Commercial, 241.

As far as corporations are concerned, the rule is settled that juridical persons take the nationality of the country where they are created and